IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.2576 of 2007

Satyabhama Babu Ransur — Applicant
Vs.
The State of Maharashtra — Respondent

Ms.Anjali Iyer for applicant.
Ms.A.Kasbe i/b. Mr.V.V.Purvant & Mr.Prasad Kulkarni
for resp.no.2.
Mr.A.S.Shitole, APP for State.

CORAM: B.H.MARLAPALLE, J.

August 13, 2007.

P.C.

. Heard Ms.Iyer, the learned counsel for the applicant who is the accused no.2. Both the complainant as well as the accused no.2 made an application before the learned Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai for return of articles articles and seized cash of Rs.6,35,000/-. The present applicant is the mother-in-law of the complainant and accused no.1 - Sachin is her son. The application filed by the complainant has been allowed whereas the application filed by the present applicant has been rejected and hence this petition.

. In application CC No.90/N/2007 filed by the

complainant she claimed that there were Stridhan articles in possession of the accused and in addition her monthly earnings were being deposited in the joint account held by her and Sachin with the HSBC Bank at Liverpool, England. She further claimed that during the period of cohabitation at England she earned about 9652 Pounds by way of her salary and it was deposited in the joint account. On the other hand in application CC No.100/N/2007 the present applicant claimed that she had voluntarily produced cash amount of Rs.6,35,000/- to the Investigating Officer and, therefore, the said amount was required to be returned to her. The learned Magistrate directed to return seized items of Stridhan articles along with the amount of Rs.6,35,000/- to the complainant subject to the following conditions:

(a) the complainant will furnish the Bank Guarantee of Rs.6,50,000/- in favour of the Court.

(b) She will produce the Stridhan property as well as the amount before the Court as and when directed.

. There is no dispute that the 18 seized items were Stridhan property and the main dispute is regarding the cash amount of Rs.6,35,000/-. The present applicant claimed that the said amount came from her other son-Nitin's account and, therefore,

the complainant could not claim the custody of the said amount. The learned Magistrate noted that the complainant was a salaried person and she had shown before the Court prima facie proof of the amount lying in the joint account by way of her earnings. Even otherwise while returning the cash amount Bank Guarantee has been sought as a condition precedent and the complainant has been directed to furnish an undertaking that as and when required she would produce the articles as well as the cash amount before the Court. The order passed is thus an equitable order and the claim over the amount of Rs.6,35,000/- will have to be decided during the trial of the case on consideration of the evidence that may be adduced by the parties. Thus the view taken by the learned Magistrate is a possible view and it cannot be termed as perverse or grossly erroneous.

. Hence the application is rejected summarily.

(B.H.MARL